

## PLANNING COMMISSION MINUTES

The Winchester Planning Commission held its regular meeting on Tuesday, February 16, 2016, at 3:00 p.m. in Council Chambers, 15 N. Cameron Street, Winchester, Virginia.

### CALL TO ORDER:

**PRESENT:** Chairman Slaughter, Vice Chairman Loring, Commissioner Wolfe, Commissioner Fieo, Commissioner Tagnesi, Commissioner Eaton

**ABSENT:** Commissioner Smith

**EX OFFICIO:** City Manager Freeman

**FREDERICK CO. LIAISON:** Commissioner Kenney

**STAFF:** Tim Youmans, Aaron Grisdale, Josh Crump, Carolyn Barrett

**VISITORS:** Mark Campbell

### APPROVAL OF MINUTES:

Chairman Slaughter called for corrections or additions to the minutes of January 19, 2016. Hearing none, he called for a motion. Commissioner Fieo moved to approve the minutes as submitted. Commissioner Tagnesi seconded the motion. Voice vote was taken and the motion passed 6-0.

### CORRESPONDENCE:

Mr. Youmans noted the updated agenda. Under Item 4 in New Business, the 2015 Annual Report will be presented by Mr. Crump. Also, under Item 6a, two site plan approvals. There is an updated staff report for the Conditional Use public hearing. There is also information for the proposed text amendment.

### CITIZEN COMMENTS:

None.

### REPORT OF THE FREDERICK COUNTY PLANNING COMMISSION LIAISON:

No meeting on January 20, 2016. One public hearing for Crossroads Development at the end of Route 37 for boundary line and proffer adjustments. They were passed and moved forward to the Board and approved. There was one public hearing on February 3, 2016 for a Conditional Use permit for a shooting range at the Isaac Walton League Park.

### PUBLIC HEARINGS:

### NEW BUSINESS:

**CUP-15-746** Request of Stacie Smith Brown for a Conditional Use Permit for Extended Stay Lodging at 574 North Loudoun Street (Map Number 153-01-G-1) zoned Commercial Industrial (CM-1) District.

The applicant was not present. Mr. Youmans reviewed the updated staff report and the motions included in it. The Comprehensive Plan calls for redevelopment of the area. There are some adjoining residential uses and across from them are some industrial uses such as Winchester Cold Storage. There

is virtually no green space and very little parking on the property. The property lost its grandfathered rights because it was vacant for more than two years. Commissioner Fieo asked if there was any approved use at this point and was it the same owner as two years ago. Mr. Youmans said no, there was no use at this time and the owner is different. The applicant has made an application to the Board of Zoning Appeals. Commissioner Tagnesi asked if the BZA considers the Comprehensive Plan or do they just look at variances. Mr. Grisdale said the BZA has a very narrow lens that they use to evaluate requests. It is a strict application of the ordinance and whether it unreasonably restricts use of the property. In this case, there was a legally established use on the property that expired. Commissioner Fieo asked if the property fell under the Comprehensive Plan and Mr. Youmans said it did.

Mr. Youmans spoke about the parking area and what was typical for extended stay lodging for temporary business use. The applicant is required to submit a site plan and a floor plan. The building was previously used as two apartments. Mr. Youmans described both units and noted they were not the usual extended stay accommodations. He referred back to the staff report, the constraints listed and the definition of extended stay lodging. The current zoning does not allow for any residential use. The Comprehensive Plan calls for the smaller properties to be gathered together to create a larger redevelopment opportunity. The owner has to be provided with some kind of use for the property. This is the best use identified by staff as an interim use.

Chairman Slaughter asked how the house became a non-conforming use. Mr. Grisdale reviewed the history of the property. Commissioner Tagnesi asked what the options were for the owner if the commission turned it down. Mr. Youmans and Mr. Grisdale said there were other zoning options, variance requests and text amendments. Commissioner Fieo asked if the Board of Zoning Appeals denied the request then the next step would be court. Mr. Grisdale said it would be circuit court.

Commissioner Eaton asked about the definition of extended stay lodging. Mr. Youmans read what was in the city code. She also asked who currently owned the property now. Mr. Youmans said it was two separate owners. Commissioner Loring asked what the condition of the building was and what else was around the property. Mr. Grisdale said staff had not been in the building and that several other residential buildings were legally non-conforming residences. Commissioner Loring noted that it would be a very long process to redevelop the whole block.

#### **Chairman Slaughter opened the public hearing**

Mark Campbell, of 552 North Loudoun Street, said he had received a letter from the applicant. He had been living in the area for about 10 years. North Loudoun Street is not the quietest neighborhood. There have been incidents of theft and a death on the street. He was concerned about having an extended stay living facility on the street that will draw transient use. The ordinance defines a transient as anyone living in a place less than 30 days. He is not afraid to call the police concerning issues about people not from the area. Secondly, he can't see extended stay as a use. He has worked in areas out of town and cannot see living across the street from a packing plant. He could not do it and could not understand why someone else would do it unless it was extraordinarily cheap rent. His next point was that if the rent was very cheap, what kind of person would that attract? The area is for commercial use and he has seen special exceptions fly through at a whim with disregard to the intended zoning ordinances. He lives in the residential area and there is an entertainment establishment 24 feet away from a residential building. The ordinance requires 200 feet but it is there because of a special exception. He does not want to deny someone the use of their property but it needs to make sense for

the area. If the building was intended for rent originally then until the city can make good use of the building, it should be for longer term use. Extended use, 30 days or 2 months is not really acceptable.

Commissioner Slaughter chose to leave the public hearing open and asked for discussion. Commissioner Tagnesi asked if the request was disapproved and the owner decided to make it into a commercial property, would she have to go with the variances or a meeting with the BZA. Mr. Youmans said the BZA would consider the conditions associated with the granting of any one of the variances needed. They could have a motion contingent upon a certain use. This would be a conditional use in the CM-1 District. The applicant has not applied to the BZA to ask for relief for any of the by-right uses like an office or service establishment that would be more conforming with the zoning ordinance. If the applicant is denied the conditional use, they can first try to exhaust options that are less consistent with the zoning and still seek dimensional variances. The BZA cannot consider use variances. They can only consider relief of dimensional requirements such as yards and setbacks. They can condition their approval of those variances to a particular proposal. Commissioner Tagnesi asked if the Commission disapproves the request, can a suggestion be made to the owner to ask for a commercial use from the BZA. Mr. Grisdale said they can discuss additional options at the property.

Commissioner Fieo said there are too many problems with the application. The use is not what the Commission intends. Establishing a conditional use may not be in the best interest of the neighborhood. He had a concern about the floor plan and fire safety. The parking is questionable because of the existing easement. The applicant needed to solve the zoning issues before coming back with suggestions for commercially approved use.

Commissioner Wolfe said that if they have them switch to commercial use, they will still be surrounded by homes. To her, it makes less sense to put a commercial use next to homes that are still non-conforming and there is no option for apartments. Mr. Grisdale said there are no residential uses allowed either by-right or with a conditional use permit in the CM-1 District. The only thing close enough is the extended stay use. The other homes are grandfathered in and those uses will fade away over time. There are other by-right options. Mr. Youmans said they had to allow the owner to have some use of the property. Chairman Slaughter stated that to his mind, it was not appropriate from a zoning perspective.

*Commissioner Fieo made a motion that the Commission forward **CU-15-746** to Council recommending denial per Sections 10-2-12 of the Zoning Ordinance because the proposal, as submitted, does not conform to the Comprehensive Plan, specifically elements of Chapter 11 of the Plan which calls for a more comprehensive economic redevelopment effort and an action statement that reads: "Compile a list of property owners for the numerous small parcels in the area bound by North Loudoun Street, North Cameron Street, and Gibbens Street that should be consolidated to create major redevelopment opportunities." Commissioner Tagnesi seconded the motion. Roll call vote was taken – ayes-4, nays-2, the motion passed.*

Chairman Slaughter asked for a motion to close the public hearing. Commissioner Tagnesi made the motion. Vice Chairman Loring seconded the motion.

**Chairman Slaughter closed the public hearing**

**TA-16-065** An ordinance amending Section 13-1-5 PUD of the Winchester Zoning Ordinance pertaining to bonus incentives to increase allowable residential density for Planned Unit Developments.

Mr. Grisdale reviewed the background for the basis of the staff drafted ordinance. The City Council would be able to award bonuses when a project is identified as a redevelopment site within the comprehensive plan and the strategic plan. It would be narrowly tailored to those targeted sites and the residential density bonuses intended for highest quality projects. Mr. Grisdale reviewed the chart for bonus factors available.

Commissioner Fieo asked what was the percentage of development with green space and parking space. Mr. Youmans explained the differences. Commissioner Fieo asked what the height limit was outside of B-1. Mr. Youmans said generally 35 feet and as high as 55 feet in some circumstances. Commissioner Tagnesi asked what the maximum units per acre were. Mr. Grisdale said 14 units per acre. Commissioner Wolfe asked how the number of 28 units was arrived at. Mr. Grisdale explained the process. Commissioner Eaton asked if the minimum acreage was five acres for a PUD. She also asked about the density bonuses. Mr. Grisdale spoke about what was listed in the zoning ordinance. Each project that came up would have to be evaluated. Chairman Slaughter asked if the base 14 units and what is expected with them could be discussed. Mr. Grisdale said that it was codified in Section 13-1-5.3. Chairman Slaughter asked if a higher quality development could be described because what the City considers high quality can be different from a developer's idea.

*Commissioner Tagnesi made a motion to initiate the Text Amendment. Vice Chairman Loring seconded the motion. Voice vote was taken and the motion passed 6-0.*

## **2015 Annual Report**

Mr. Crump reviewed the annual report. Most of the development applications were similar in numbers to the previous year. He highlighted the Conditional Use and Corridor Enhancement applications. A large number of CE applications were along Valley Avenue. There was discussion about the positive impact the CE District was having.

## **OLD BUSINESS:**

None

## **OTHER BUSINESS:**

### **Admin approvals – Site plans**

**SP-16-39** 135 Featherbed Lane – Minor revision and waiver request. Commissioner Tagnesi moved to approve. Vice Chairman Loring seconded. Voice vote was taken and the motion passed 6-0.

**SP-15-751** 634-645 East Cork Street – Minor revision (Table until March 15, 2016 meeting)  
Vice Chairman Loring moved to table. Commissioner Wolfe seconded. Voice vote was taken and the motion passed 6-0.

## **ADJOURN**

With no further business before the Commission, the meeting adjourned at 4:30pm.